

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

MAR 26 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

Pine Bluff DIVISION

JAMES W. McCORMACK, CLERK
By: [Signature]
DEP CLERK

CASE NO. 5:13-cv-99 BSM/JTR

This case assigned to District Judge Miller
and to Magistrate Judge Ray

I. Parties

In item A below, place your full name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

- A. Name of plaintiff: Berry Morrow
ADC# 143825
Address: 2501 State Farm Rd, Tucker AR 72168
Name of plaintiff: _____
ADC# _____
Address: _____
Name of plaintiff: _____
ADC# _____
Address: _____

In item B below, place the full name of the defendant in the first blank, his official position in the second blank, his place of employment in the third blank, and his address in the fourth blank.

- B. Name of defendant: _____
Position: _____
Place of employment: _____
Address: _____
Name of defendant: _____
Position: _____
Place of employment: _____

Defendants

1) Unit Property Control Officer (UPCO)

2) Laundry Supervisor

3) Maintenance Supervisor

4) Medical Personnel

5) Warden

6) Deputy Director

7) Chief Deputy Director

8) Director

ALL Defendants Can be Contact Through:

Central Office

POD 8707

Pine Bluff AR

71611

Address: _____

Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

II. Are you suing the defendant in:

- ☐ Official capacity only
- ☐ Personal capacity only
- ☒ Both official and personal capacity

III. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No ☒

B. If you answer to A is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

Yes _____ No ☒

☐ Parties to the previous lawsuit:

Plaintiffs _____

Defendants: _____

☐ Court (if federal court, name the district; if state court, name the county):

- ☐ Docket Number: _____
- ☐ Name of Judge to whom case was assigned: _____
- ☐ Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____
- ☐ Approximate date of filing lawsuit: _____
- ☐ Approximate date of disposition: _____

IV. Place of Present confinement: Maximum Security Unit
2501 State Farm Rd, Tucker AR 72468

V. At the time of the alleged incident(s), were you:

(Check appropriate blank)

_____ in jail and still awaiting trial on pending criminal charges

☒ serving a sentence as a result of a judgment of conviction

_____ in jail for other reasons (e.g., alleged probation violation, etc.)

explain: _____

VI. The Prison Litigation Reform Act (PLRA), 42 U.S.C. §1997e, requires complete exhaustion of administrative remedies of all claims asserted, prior to the filing of a lawsuit. There is a prisoner grievance procedure in the Arkansas Department of Correction, and in several county jails. Failure to complete the exhaustion process provided as to each of the claims asserted in this complaint may result in the dismissal without prejudice of all the claims raised in this complaint.

A. Did you file a grievance or grievances presenting the facts set forth in this complaint?

Yes ☒ No _____

B. Did you completely exhaust the grievance(s) by appealing to all levels within the grievance procedure?

Yes ☒ No _____

If not, why? _____

VII. Statement of claim

State here (as briefly as possible) the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

~~See~~ See Attachment ~~See~~

Statement of Claim

- 1) It is the custom and practice of Isolation officers to regularly operate the Heat, Fan, and Light Systems maliciously to torture certain inmates or passify others
- 2) During each winter period from March 2009 to March 2013 I have been housed in painfully cold isolation cells at four (4) different units.
- 3) There are rarely any noticeable heat at any of the four (4) units I have been housed at.
- 4) First hand testimony from other inmates leads me to believe similar conditions exist ~~at other units~~ in the isolation area at other units.
- 5) The Unit Property Control Officer (UPCO) and Laundry Supervisor regularly fail to provide the minimum ^{required} clothing and bedding
- 6) Medical personnel refuse to provide adequate relief from the pain inflicted by the cold conditions
- 7) My formal complaints to the warden are not properly investigated or are recklessly disregarded
- 8) My appeals to the appropriate person at the Director level is recklessly disregarded
- 9) The Director has fail to properly train, supervise, control, or direct the UPCO, Laundry Supervisor, Maintenance Supervisor, Medical Personnel, The warden, and Deputy Directors in the discharge of their duties,

- 10) I am currently housed at Maximum Security Unit and expect to remain here until my release from ADC custody in 2016.
- 11) Attached statements of James Bentley and Robert Wells will show that the conditions described within this complaint have been persistent at the Maximum Security Unit for years.
- 12) Without Court intervention the conditions set forth above are expected to continue until my release from ADC custody in 2016.

800-4

STATE OF ARKANSAS)

COUNTY OF Jefferson) §**AFFIDAVIT**I, Robert Wells, after first being duly sworn, do hereby swear, deposeand state that: I Robert Wells 139868, which is housed
in east isolation, cell 10, with no extra blankets,or sheets, are the proper clothes and under
garments, cap/hat, knowing the weather is
very cold, cause it's winter, and we haveno heat in east isolation, it's so cold to
the point I am shaking, and also comingdown with a cold, to the point, I am near
sick, I should have not to suffer asbe cold, I am very cold, cold, cold! I been in isolation
the hold going on 2 years with this same problem over and over!

I further swear that the statements, matters and things contained herein are true and accurate to

the best of my knowledge, information and belief.

DATE

1-14-13

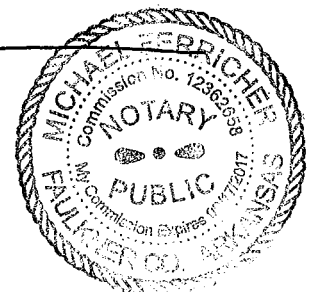
AFFIANT

[Signature]

SOCIAL SECURITY #

430-62-6621SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 14 day ofJAN, 20 13.

NOTARY PUBLIC

[Signature]My Commission Expires: 4-17-2017

STATE of Arkansas
 Co. of Jeff AFFIDAVIT

I James Bewley do hereby swear and state that: ~~On or about IJB~~
 I have been Grievaing about the Coled / lack of heat in Tucker Max Iso. For 2 Years. The has heat not been fixed! I have been toled the Fan moten on the heater has ~~not~~ been working For 3 Years! Boeth Wardens have been Lying about the heat we shoud have ineslated Jump-sutes or portebal heaters. I am coled thoy have to cut all ventilation off becouse of the Coled! Please help! _____

I James Bewley swear that the statem-
 ents, containd herein are true and accur-
 ate to the best of my knowledge & Belief
 Sworn on this 13 day of Jan 20 13

James Bewley



VIII. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

** See Attachment **

I declare under penalty of perjury (18 U.S. C. § 1621) that the forgoing is true and correct.

Executed on this 24 day of March, 2013.

[Signature]

Signature(s) of Plaintiff(s)

Relief

- 1) A declaration that the act or ~~omission~~ omissions described herein violated plaintiff's rights under the Constitution or laws of the United States.
- 2) A preliminary and permanent injunction ordering:
 - a. Some type of control device on the switches for heat, fan, and light systems to limit abuse
 - b. Provide the minimum clothing, bedding, and heating
- 3) Compensatory damages
- 4) Punitive Damages
- 5) A jury trial ~~on~~ on all issues triable by jury
- 6) Plaintiff's cost in this suit
- 7) Any other relief this Court deems just, proper, and equitable.

Berry Morrow

Plaintiff

V.

Case #

Defendant

Interrogatories and 1st request for production of documents

- 1) Identify the persons involved in this complaint
- 2) State the duties of each person identified in point #1 above. If those duties are set forth in any document, produce it
- 3) Produce plaintiff's "Inmate Record Summary"
- 4) Identify any and all policy, procedures, or instructions to staff regarding Heat, Fan (ventilation), lights, or temperature

Respectfully Submitted,

BjM 3-24-13

Berry Morrow
MSU #143825
2501 State Farm Rd
Tucker AR

72168